

Town of Milton
Board of Adjustment
Minutes
November 23, 2004

Members Present:

John Collier

Marion Jones

Larry Savage

Joan Martin-Brown

Jackie Artis

Town Members:

Eric Evans

John Collier opened the meeting. Mr. Collier introduced the application from Broadkill View LLC. They are requesting a variance from the Municipal Code of the Town of Milton, Article 5, Section 5.1 (Density Control Table). The applicant requests a variance from the maximum height restriction for the T-C Zoning District (Town Center) from 40 feet to 50 feet. The applicant is also requesting a variance from the maximum number of permitted stories from 3 stories to 4 stories. The property the variances are being requested for is located at 113 Union Street, further identified by Sussex County Tax Map 2-35-14.19 Parcel 184.00.

Bruce Moneta introduced himself and proceeded to explain the request. Mr. Moneta stated that he is representing the application for Broadkill View LLC. and a site plan had been submitted before Planning & Zoning the previous month for a conceptual review. During the review Planning and Zoning commented on the parking for the complex. Mr Moneta stated the Planning & Zoning Commission stated that the applicant should investigate adding an additional story to the structure and come before the BOA for a variance in regards to height and number of stories. The reason the applicant is requesting a variance is to be able to provide some parking. The first level will be a under building parking area reserved for the 3rd and 4th floor condominiums. The 2nd floor will be designed for a restaurant and the 3rd and 4th floors will be condominiums. Mr. Moneta proceeded to explain the design of the structure and the need for the height and story variance. Mr. Moneta also stated the area is at the lowest point in the Town Center.

John Collier asked what the hardship is for the variance. Mr. Moneta stated the property is a triangular shape, below the flood plain and the property is only accessible from the street. The additional level and height is also for parking. The Planning & Zoning Commission requested parking on site. Marion Jones asked whom the parking would be designated for. Mr. Moneta stated they are for the condos. Larry savage asked about additional parking for the establishment. Mr. Moneta stated they would be working with the town to provide additional parking and the use of the public parking lot is available. Mr. Moneta stated that the building, elevator shaft, pipes, A/C ect. would not exceed the 50' requested. There was discussion in regards to the height of the ceilings on each floor, removing a floor in its entirety. Mr. Moneta stated the developer is seeking 10 condos and commercial mixed use for the lot. Further discussion took place in the design requirements, minimum building requirements and access to the equipment on the roof.

John Collier asked if there was anyone present in favor of the application. Bob Blayney stated the T/C zoning and Economic Development is looking for 2 components. Commercial and Residents and this building is providing both. This will keep the crime reduced in the T/C area and the height of the structure will enhance the cityscape of the town by adding diversity. Ed Harris stated he was in favor of the structure and the height. He also stated prior to seeing this design he was apposed to the project and now I am in favor of the project. Libby Zando stated

she was in favor of the project. Mr. Norton stated he did not have a problem with the variance. Gene Dvornick stated that the design was common for areas in the coastal towns. John Collier asked if anyone was opposed to the variance. Charles Jones stated he did not think a variance should be granted until the entire site plan was provided and review in its entirety. After further discussion on the plan and site plan comments John Collier closed the public hearing and the Board of Adjustment discussed and made the following decision.

John Collier was in favor of granting the variance with the following conditions:

1. The second floor of the structure will remain commercial whether restaurant or shops but at no time be residential. This means the building will be mixed use.
2. Substantiate additional parking that was presented as in working with the town to provide parking in other locations.

If they can meet those two conditions I am in favor of the variance.

Jackie Artis stated she was in agreement with the recommendation.

Joanie Martin-Brown stated she was apposed to granting the variance. She feels the town has worked very hard in writing the codes and establishing the T/C. Joanie feels that the code was established and the code should be followed. The developers have knowledge of the code and to allow for them to manipulate the code to their advantage is inappropriate.

Marion Jones stated considering Article 11 the establishment and duties of the BOA. The one thing taken under advisement when reviewing a application is, whether or not the benefit sought can be achieved by some method, feasible for the applicant to pursue, other than an area variance. Taking into consideration the entire area down town I do not believe by granting this variance we are doing any benefit to the T/C but rather allowing the developer to have a increased profit margin and therefore I am opposed to the request.

Larry Savage stated that on coming to the meeting tonight I was apposed to the application but after hearing the applicants request I have had a change of heart. I also agree that we grant it according to sufficient parking is presented and the building remains mixed use. I approve the increase the 3 stories to 4 stories and the height.

Joanie Martin-Brown stated she is willing to change her decision as long as the second floor remains commercial and the building is mixed use.

After the comments the decision was:

Jackie Artis	-	Grant variance with conditions
Joanie Martin-Brown	-	Opposed the Variance
John Collier	-	Grant variance with conditions
Marion Jones	-	Opposed the Variance
Larry Savage	-	Grant variance with conditions

The Board of Adjustment was then closed.

Marion Jones

Jackie Artis

Joan Martin-Brown

Larry Savage

John Collier